

REMARKS

A. Status of the Claims

Claims 1-21, 23, and 24 have been canceled without prejudice or disclaimer. As suggested by the Examiner, Claim 25 has been rewritten in independent form and incorporates the subject matter of original Claim 11. No new matter has been added by the amendment to Claim 25.

B. Submission of Original Patent Under 37 C.F.R. § 1.178 (a)

The original patent, U.S. Patent No. 6,001,844, is submitted with this response to satisfy the requirements of 37 CFR § 1.178.

C. Objection of Claims 1, 4, and 5 Under 37 C.F.R. §1.173(b)

Applicants submit that the Examiner's objections to the amendments of Claims 1, 4, and 5 filed on December 14, 2001, are rendered moot in light of the cancellation of the aforementioned claims. Accordingly, Applicants respectfully request that the objections of Claims 1, 4, and 5 under 37 C.F.R. § 1.173(b) be withdrawn.

D. Rejection of Claims 1, 4, 11-19, and 23 Under 35 U.S.C. § 112, Second Paragraph

Claims 1, 4, 11-19, and 23 are rejected by the Examiner under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants submit that the rejection under 35 U.S.C. § 112, second paragraph has been obviated in view of the cancellation of the afore-mentioned claims. Accordingly, Applicants respectfully request that the objections of Claims 1, 4, 11-19 and 23 under 37 C.F.R. § 1.173(b) be withdrawn.

E. Rejection of Claims Under 35 U.S.C. § 103

Claims 1, 4, 5, 11-13, 17-21, 23, and 24 are rejected by the Examiner under 35 U.S.C. § 103(a) as allegedly separately unpatentable over each of the following references: WO 92/16213, WO 94/15602, WO 94/07861, and WO 95/07926.

Applicants respectfully submit that the rejections of Claims 1, 4, 5, 11-13, 17-21, 23, and 24 under 35 U.S.C. § 103(a) have been rendered moot in view of the cancellation of the

afore-mentioned claims. Accordingly, Applicants respectfully request that each rejection of Claims 1, 4, 5, 11-13, 17-21, 23, and 24 under 35 U.S.C. § 103(a) be withdrawn.

F. Obviousness-Type Double Patenting Rejections

- 1) Claims 1, 4, 17, and 18 have been rejected as unpatentable over Claim 1 of U.S. Patent No. 5,693,810 under the judicially created doctrine of obviousness-type double patenting. Applicants respectfully submit that the rejections of Claims 1, 4, 17, and 18 under obviousness-type double patenting have been rendered moot in view of the cancellation of the afore-mentioned claims. Accordingly, Applicants respectfully request that the obviousness-type double patenting rejection of Claims 1, 4, 17, and 18 over Claim 1 of U.S. Patent No. 5,693,810 be withdrawn.
- 2) Claims 1, 4, 11, 12, 14, 15, 17, 18, and 20 have been rejected as unpatentable over Claims 22 and 25 of U.S. Patent No. 6,645,974 under the judicially created doctrine of obviousness-type double patenting. Applicants respectfully submit that the rejections of Claims 1, 4, 11, 12, 14, 15, 17, 18, and 20 under obviousness-type double patenting have been rendered moot in view of the cancellation of the afore-mentioned claims. Accordingly, Applicants respectfully request that the obviousness-type double patenting rejection of Claims 1, 4, 11, 12, 14, 15, 17, 18, and 20 over Claims 22 and 25 of U.S. Patent No. 6,645,974 be withdrawn.

G. Objection of Claim 25

The Examiner has objected to Claim 25 as being dependent upon a rejected base claim. Applicants appreciate and thank the Examiner for her indication that Claim 25 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Responsive to the Examiner's remarks, Claim 25 has been rewritten to include the limitations the base claim, Claim 11. Accordingly, Applicants respectfully request the withdrawal of the objection of Claim 25.

G. Allowable Subject Matter

Applicants appreciate and thank the Examiner for her allowance of Claim 22.

H. Information Disclosure Statement of December 14, 2001

Applicants are in receipt of the initialed and acknowledged list of references cited in the Information Disclosure Statement filed in this application on December 14, 2001.

Enclosed herewith is (1) the statement offering to surrender the original patent in accordance with 37 C.F.R. § 1.178, signed by Melvin Winokur on behalf of Merck & Co., Inc., and (2) the original Letters Patent. Merck & Co., Inc. is the assignee of the entire interest of this patent, and Melvin Winokur is authorized to act on behalf of the assignee. In accordance with 37 C.F.R. § 3.73(b), documentary evidence of a chain of title from the original owner to the assignee, Merck & Co., Inc. (i.e., notarized copy of the executed assignment, recorded at Reel/Frame 010117/0047) and documents establishing Melvin Winokur's authority to act on behalf of Merck & Co., Inc. were previously submitted with Applicant's Re-issue Application filed on December 14, 2001.

In view of the foregoing remarks, Applicants respectfully request the reconsideration of the pending claims and the reexamination of the application. It is believed that all formal requirements are satisfied by this response, and therefore this Re-issue Application is in condition for allowance. The timely allowance of the pending claims is respectfully requested.

If a telephonic communication with the Applicants' representative will advance the prosecution of the instant application, please telephone the representative indicated below. Applicants believe no additional fees are due but the Commissioner is authorized to charge any fees required in connection with this response to Merck Deposit Account No. 13-2755.

Respectfully submitted,

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Enclosures: Statement of Surrender
Original Letters Patent